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*Attorneys for Plaintiff Joy Nwabueze and
the putative class*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

JOY NWABUEZE, individually and on
behalf of a class of similarly situated
individuals,

Plaintiff,

vs.

AT&T INC., a Delaware corporation;
PACIFIC BELL TELEPHONE
COMPANY d/b/a AT&T CALIFORNIA, a
California corporation; AT&T SERVICES,
INC., a Delaware corporation; AT&T
OPERATIONS, INC., a Delaware
corporation; and DOES 1 through 21,

Defendants.

Douglas R. Tribble (State Bar No. 116868)
Connie J. Wolfe (State Bar No. 207661)
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*Attorneys for Defendants
Pacific Bell Telephone Company,
AT&T Services, Inc., and
AT&T Operations, Inc.*

Case No. CV 09-1529 SI

**STIPULATION AND [PROPOSED] ORDER
COORDINATING DISCOVERY**

Courtroom: 10
Judge: Hon. Susan Illston

First Amended Class Action Complaint
Filed: August 13, 2009

1 The parties, by their undersigned counsel, hereby enter into the following Stipulation,
2 subject to the approval of the Court.

3 **RECITALS**

4 WHEREAS, *Terry v. Pacific Bell Telephone Co.*, No. RG 09 488326 (“*Terry*”), is pending
5 in the Superior Court for the State of California, County of Alameda, before Judge Steven A.
6 Brick;

7 WHEREAS, *Terry* is a proposed class action challenging AT&T’s alleged practice of
8 placing unauthorized charges on customers’ telephone bills for third party products and services
9 they did not purchase and therefore involves issues relevant in this litigation;

10 WHEREAS, Plaintiff Joy Nwabueze (“Plaintiff”), Defendants Pacific Bell Telephone
11 Company d/b/a AT&T California, AT&T Services, Inc., and AT&T Operations, Inc.
12 (“Defendants”), and *Terry* plaintiff’s counsel have acknowledged that the discovery in this action
13 overlaps with the discovery in *Terry*;

14 WHEREAS on June 16, 2011, the *Terry* court entered an Order Coordinating Discovery
15 (the “California Order”), a copy of which is attached hereto as Exhibit A;

16 WHEREAS, the California Order provides for, *inter alia*, coordination of discovery
17 between this action and *Terry*, allowing plaintiff in *Terry* to receive discovery from and attend
18 depositions in this action, expressly in a manner that will not interfere with the scheduling,
19 prosecution, and defense of this action, and permits Plaintiff to receive discovery from and attend
20 depositions in *Terry*, expressly in a manner that will not interfere with the scheduling,
21 prosecution, and defense of this action or *Terry*;

22 WHEREAS, except as set forth above, plaintiff in *Terry* may not propound or seek
23 discovery in this action;

24 WHEREAS, the Court in *Terry* has entered a protective order (“*Terry* Protective Order”),
25 a copy of which is attached hereto as Exhibit B;

26 WHEREAS, the California Order provides that Defendant Pacific Bell Telephone
27 Company must produce to plaintiff in *Terry* all written and electronic discovery it has
28 propounded or produced or will propound or produce in this action, subject to the *Terry*

1 Protective Order, with the exception of any personal identifying information relating to Plaintiff
2 Joy Nwabueze, which shall not be produced to counsel in *Terry* unless and until Defendant
3 receives express written consent from Ms. Nwabueze to release such information; and

4 WHEREAS, the California Order provides that, if acceptable to this Court, plaintiff in
5 *Terry* may attend depositions noticed in this action and may ask questions related to the claims in
6 *Terry* subsequent to questioning by counsel in this action.

7 NOW, THEREFORE, the parties hereby stipulate and agree as follows:

8 **STIPULATION**

9 1. The parties will contemporaneously serve (by facsimile or e-mail) plaintiff in
10 *Terry* with copies of any deposition notices or deposition subpoenas.

11 2. The parties shall attempt in good faith to meet and confer regarding all aspects of
12 written discovery and depositions (including the scheduling and locations of such depositions) so
13 that discovery in *Terry* may proceed expeditiously, economically, and in a manner that will not
14 delay or disrupt discovery or other proceedings in this action.

15 3. Plaintiff in *Terry* may not move to compel, or otherwise challenge the discovery
16 proceedings, in this action.

17 4. Plaintiff's counsel in *Terry* may attend depositions in this action and may question
18 witnesses on matters related to the claims in *Terry*, subsequent to the conclusion of all
19 questioning by counsel to the parties in this action. If *Terry* Plaintiff's counsel wish to pose
20 questions to a deponent in a *Nwabueze* deposition, such counsel will be allowed to ask questions
21 at the conclusion of questioning by the parties, avoiding unduly repetitive questioning (*e.g.*, each
22 witness will not be subject to asked and answered questions under the same rules as if there are
23 multiple parties on the same side in a single case). Each witnesses will only be noticed and
24 deposed once (absent good cause) as in any single litigation matter.

25 5. Defendants shall notify Plaintiff of *any* discovery order that the *Terry* court enters,
26 or of any action that the *Terry* court instructs any party herein to take. Plaintiff shall cooperate
27 with any such requests to the extent that they are consistent with this Order.
28

1 6. The parties shall contemporaneously serve plaintiff in *Terry* with all written
2 discovery requests propounded, written discovery responses produced, and material produced in
3 this action, subject to the terms of the *Terry* protective order. However, Defendant shall not
4 produce any personal identifying information relating to Plaintiff Joy Nwabueze to counsel in
5 *Terry* unless and until Defendant receives express written consent from Ms. Nwabueze to release
6 such information.

7 7. All discovery initially propounded or produced in *Terry*, or hereafter propounded,
8 produced, or obtained in *Terry*, shall be deemed as if issued in this action and all responses and
9 productions by Defendants in *Terry* shall be deemed as if provided in response to discovery
10 issued in this case and may be used in this action as if it had been initially propounded, produced,
11 or obtained in this action, to the extent and in the manner permitted under the Federal Rules of
12 Civil Procedure and subject to the terms of the protective order in this action. Depositions
13 noticed and taken as provided for in this stipulation shall be deemed to have been noticed and
14 taken in both proceedings and such deponents shall not be subject to further depositions in these
15 matters absent good cause.

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8. This Order applies regardless of whether discovery material originates with a party or a non-party.

IT IS SO STIPULATED.

Dated: June 23, 2011.

PILLSBURY WINTHROP SHAW PITTMAN LLP
ROXANE A. POLIDORA
CONNIE J. WOLFE

By /s/ Connie J. Wolfe
Connie J. Wolfe
Attorneys for Defendants
Pacific Bell Telephone Company, AT&T Services,
Inc., and AT&T Operations, Inc.

Dated: June 23, 2011

KELLER GROVER, LLP
JEFFREY F. KELLER

JACOBS KOLTON, CHTD.
JOHN G. JACOBS
BRYAN G. KOLTON

DAVID SCHACHMAN & ASSOC., PC
DAVID SCHACHMAN

By /s/ David Schachman
David Schachman
Attorneys for Plaintiff
Joy Nwabueze and the Putative Class

**ATTESTATION OF SIGNATURE
(N.D. Cal. General Order 45)**

I, Connie J. Wolfe, hereby attest that concurrence in the filing of the following document:
STIPULATION AND [PROPOSED] ORDER COORDINATING DISCOVERY has been
obtained from all of the signatories.

Dated: June 23, 2011

/s/ Connie J. Wolfe
Connie J. Wolfe

[PROPOSED] ORDER

The foregoing stipulation is approved, and **IT IS SO ORDERED.**

Dated: 6/27/11



The Honorable Susan Illston
United States District Judge

STIPULATION

EXHIBIT

A



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COPY

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Ample

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22 *Attorneys for Plaintiff and proposed Class*

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*Attorneys for Defendant Pacific Bell Telephone
 Company*

JUN 16 2011

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

AMELIA TERRY, individual, on behalf of
 herself and all others similarly situated,

Plaintiff,

v.

PACIFIC BELL TELEPHONE
 COMPANY, d/b/a/ AT&T California, and
 DOES 1 through 99,

Defendants.

Case No. RG 09 488326

STIPULATION AND [PROPOSED] ORDER
COORDINATING DISCOVERY

ASSIGNED FOR ALL PURPOSES TO:

Judge: Hon. Steven A. Brick

Dept: 17

ENDORSED
 FILED
 ALAMEDA COUNTY

JUN 14 2011

CLERK OF THE SUPERIOR COURT
 BY YASMIN SINGH, Deputy

923347.2
 923362.1

- 1 -

STIPULATION AND [PROPOSED] ORDER COORDINATING DISCOVERY

1 The parties hereby stipulate and agree as follows:

2 WHEREAS, the instant case ("*Terry*") involves issues that are involved in
3 *Nwabueze v. AT&T Inc.*, No. CV 09-1529 SI, pending in the United States District Court for the
4 Northern District of California ("*Nwabueze*"); and

5 WHEREAS, the parties stipulate to coordinate the discovery in *Terry* and
6 *Nwabueze* to preserve party and court resources and promote efficiency;

7 The parties hereby stipulate that:

8 **I. Discovery In *Terry***

9 A. **Avoidance of redundancy.** All discovery propounded and/or noticed in
10 *Nwabueze* shall be deemed as if issued in *Terry*, and all responses, production, and testimony
11 provided in response to said discovery shall be deemed as if provided in response to discovery
12 issued in *Terry*. Prior to initiating any discovery in *Terry*, Plaintiff's counsel shall make a good
13 faith effort to familiarize themselves with any previous discovery propounded in *Nwabueze* and
14 shall avoid repetition of discovery previously propounded in *Nwabueze*. Depositions noticed and
15 taken as provided for in this stipulation shall be deemed to have been noticed and taken in both
16 proceedings, and such deponents shall not be subject to further depositions in these matters absent
17 good cause.

18 B. **Copies of discovery.** Within ten days of the date of this Order, Defendant
19 Pacific Bell Telephone Company ("Defendant") will produce the following to plaintiff in
20 *Nwabueze*: (1) all written discovery requests propounded, written discovery responses produced,
21 and material produced and (2) transcripts of all depositions taken (including exhibits) in *Terry* as
22 of the date of this Order. On an ongoing basis following entry of this Order, the parties shall
23 contemporaneously serve *Nwabueze* plaintiff's counsel all material satisfying item 1 from the
24 preceding sentence. However, Defendant will not produce any personal identifying information
25 relating to Plaintiff Amelia Terry (whether in the form of documents produced or deposition
26 exhibits) to counsel in *Nwabueze* without express written consent from Ms. Terry to release such
27 information. Material propounded or produced by third parties in *Terry* shall be copied to
28 plaintiff in *Nwabueze* by Defendant, at the cost of plaintiff in *Nwabueze*.

1 C. **Depositions.** Plaintiff's counsel will discuss depositions they wish to take
 2 with *Nwabueze* plaintiff's counsel and coordinate scheduling and other logistics to provide
 3 *Nwabueze* plaintiff's counsel an opportunity to attend the depositions if they wish. The parties
 4 will contemporaneously serve *Nwabueze* plaintiff's counsel with copies of all deposition notices
 5 they serve. *Nwabueze* plaintiff's counsel will be allowed to attend any deposition in *Terry* and
 6 ask questions at the conclusion of questioning by the party noticing the deposition, avoiding
 7 repetitive questioning (e.g, each witness will not be subject to asked and answered questions
 8 under the same rules as if there are multiple parties on the same side in a single case). Each
 9 witnesses will only be noticed and deposed once (absent good cause) as in any single litigation
 10 matter.

11 **II. Discovery In Nwabueze**

12 A. **Copies of discovery.** Within ten days of the date of this Order, Defendant
 13 will produce the following to Plaintiff's counsel: (1) all written discovery requests propounded,
 14 written discovery responses produced, and material produced and (2) transcripts of all depositions
 15 taken (including exhibits) in *Nwabueze* as of the date of this Order. On an ongoing basis
 16 following entry of this Order, Defendant shall contemporaneously produce to Plaintiff's counsel
 17 all material satisfying item 1 from the preceding sentence. However, Defendant will not produce
 18 any personal identifying information relating to Plaintiff Joy Nwabueze (whether in the form of
 19 documents produced or deposition exhibits) to counsel in *Terry* without express written consent
 20 from Ms. Nwabueze to release such information. Material propounded or produced by third
 21 parties in *Nwabueze* shall be copied to plaintiff in *Terry* by Defendant, at the cost of plaintiff in
 22 *Terry*.

23 B. **Depositions.** Defendant shall contemporaneously serve Plaintiff's counsel
 24 in *Terry* by facsimile or e-mail with all deposition notices served in *Nwabueze* and said notices
 25 shall be deemed as if also issued in *Terry*.¹ Defendant shall promptly inform Plaintiff's counsel
 26 of the dates, times, and locations of depositions scheduled in *Nwabueze*, so that Plaintiff's counsel

27 ¹ If *Nwabueze* plaintiff's counsel serves a deposition notice on Plaintiff's counsel in *Terry*,
 28 Defendant need not re-serve that notice.

1 can attend. If Plaintiff's counsel wish to pose questions to a deponent in a *Nwabueze* deposition,
 2 Plaintiff's counsel will be allowed to ask questions at the conclusion of questioning by the party
 3 noticing the deposition, avoiding repetitive questioning (e.g, each witness will not be subject to
 4 asked and answered questions under the same rules as if there are multiple parties on the same
 5 side in a single case). Each witnesses will only be noticed and deposed once (absent good cause)
 6 as in any single litigation matter.

7 C. **Admissibility.** Any deposition noticed or taken in *Nwabueze* may be used
 8 in *Terry* as if it had been taken under the California Code of Civil Procedure. Any deposition
 9 noticed or taken in *Nwabueze* shall be admissible to the extent permitted by, and its use shall be
 10 governed by, the California Code of Civil Procedure and the California Evidence Code.

11 **III. Coordination And Cooperation**

12 A. **Parallel order in *Nwabueze*.** Within 20 days of the date of this Order,
 13 Defendant and *Nwabueze* plaintiff's counsel shall jointly present to the *Nwabueze* court for its
 14 consideration the Stipulation And [Proposed] Order Coordinating Discovery in *Nwabueze*,
 15 attached hereto as Exhibit A. That order provides, *inter alia*, that Plaintiff's counsel are permitted
 16 to attend and participate in depositions in *Nwabueze*. Defendant shall make a good faith effort to
 17 obtain the approval of that order by the *Nwabueze* Court.

18 B. **Conferring to achieve efficiency.** Plaintiff's and Defendant's counsel
 19 shall make a good faith effort to confer with each other and with counsel in *Nwabueze* regarding
 20 all aspects of written discovery and depositions (including the scheduling and locations of such
 21 depositions) so that discovery in *Terry* may proceed expeditiously, economically, and in a manner
 22 that will not delay or disrupt discovery or other proceedings in *Nwabueze*.

23 C. **Limitation to *Terry*.** Plaintiff in *Terry* may not move to compel, or
 24 otherwise challenge the discovery proceedings, in *Nwabueze*.

25 D. **The Court's powers.** The parties acknowledge that the Court may, in its
 26 discretion, endeavor to formally coordinate with United States District Court for the Northern
 27 District of California insofar as may be appropriate and practicable to promote the coordination
 28 goals and facilitate implementation of this Order and as a matter of this Court's inherent power to

1 manage litigation. The parties further acknowledge that any such initiative by the Court will
 2 serve the purposes and provisions of this Order, and they may request, upon reasonable notice to
 3 the parties in both actions, that the Court take specific action to assist the coordination of
 4 discovery.

5 E. Notice regarding *Nwabueze* orders. Defendant shall notify Plaintiff of
 6 any discovery order that the *Nwabueze* court enters, or of any action that that court may request
 7 Plaintiff herein to take, to facilitate the coordination of discovery in the two actions. Plaintiff
 8 herein shall cooperate with any such requests that are consistent with this Order. If appropriate,
 9 Defendant shall permit Plaintiff to enter into any confidentiality order applicable to *Nwabueze*.

10 IV. Miscellaneous

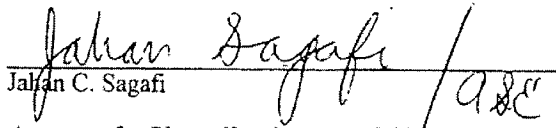
11 A. All discovery produced in *Terry*, which was initially produced or
 12 propounded in *Nwabueze*, may be used in *Terry* as if it had been initially produced or propounded
 13 in *Terry* and to the extent and in the manner permitted under the California Code of Civil
 14 Procedure and the California Evidence Code.

15 B. The requirements of this Order apply to discovery provided or propounded
 16 by, and depositions of, parties as well as third parties.

17 C. Production required by this Order will be subject to the operative
 18 Protective Order in *Terry* (entered by this Court on August 26, 2010) and the *Nwabueze*
 19 Protective Order (entered on April 14, 2010).

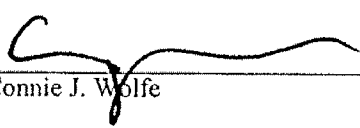
20
 21 Dated: June 14, 2011

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

22
 23 
 24 Jalran C. Sagafi
 25 Attorneys for Plaintiff and proposed Class

1 Dated: June 13, 2011

2 PILLSBURY WINTHROP SHAW PITTMAN LLP

3
4 
5 _____
6 Connie J. Wolfe

7 *Attorneys for Defendant Pacific Bell Telephone Company*
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[PROPOSED] ORDER

The foregoing stipulation is approved, and IT IS SO ORDERED.

Dated: June 16, 2011

St. Ash
The Honorable Steven A. Brick
Alameda County Superior Court

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EXHIBIT A

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*Attorneys for Defendants
Pacific Bell Telephone Company,
AT&T Services, Inc., and
AT&T Operations, Inc.*

*Attorneys for Plaintiff Joy Nwabueze and
the putative class*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JOY NWABUEZE, individually and on
behalf of a class of similarly situated
individuals,

Plaintiff,

vs.

AT&T INC., a Delaware corporation;
PACIFIC BELL TELEPHONE
COMPANY d/b/a AT&T CALIFORNIA, a
California corporation; AT&T SERVICES,
INC., a Delaware corporation; AT&T
OPERATIONS, INC., a Delaware
corporation; and DOES 1 through 21,

Defendants.

Case No. CV 09-1529 SI

STIPULATION AND [PROPOSED] ORDER
COORDINATING DISCOVERY

Courtroom: 10
Judge: Hon. Susan Illston

First Amended Class Action Complaint
Filed: August 13, 2009

1 The parties, by their undersigned counsel, hereby enter into the following Stipulation,
2 subject to the approval of the Court.

3 **RECITALS**

4 WHEREAS, *Terry v. Pacific Bell Telephone Co.*, No. RG 09 488326 ("*Terry*"), is pending
5 in the Superior Court for the State of California, County of Alameda, before Judge Steven A.
6 Brick;

7 WHEREAS, *Terry* is a proposed class action challenging AT&T's alleged practice of
8 placing unauthorized charges on customers' telephone bills for third party products and services
9 they did not purchase and therefore involves issues relevant in this litigation;

10 WHEREAS, Plaintiff Joy Nwabueze ("Plaintiff"), Defendants Pacific Bell Telephone
11 Company d/b/a AT&T California, AT&T Services, Inc., and AT&T Operations, Inc.
12 ("Defendants"), and *Terry* plaintiff's counsel have acknowledged that the discovery in this action
13 overlaps with the discovery in *Terry*;

14 WHEREAS on _____, 2011, the *Terry* court entered an Order Coordinating
15 Discovery (the "California Order"), a copy of which is attached hereto as Exhibit A;

16 WHEREAS, the California Order provides for, *inter alia*, coordination of discovery
17 between this action and *Terry*, allowing plaintiff in *Terry* to receive discovery from and attend
18 depositions in this action, expressly in a manner that will not interfere with the scheduling,
19 prosecution, and defense of this action, and permits Plaintiff to receive discovery from and attend
20 depositions in *Terry*, expressly in a manner that will not interfere with the scheduling,
21 prosecution, and defense of this action or *Terry*;

22 WHEREAS, except as set forth above, plaintiff in *Terry* may not propound or seek
23 discovery in this action;

24 WHEREAS, the Court in *Terry* has entered a protective order ("*Terry* Protective Order"),
25 a copy of which is attached hereto as Exhibit B;

26 WHEREAS, the California Order provides that Defendant Pacific Bell Telephone
27 Company must produce to plaintiff in *Terry* all written and electronic discovery it has
28 propounded or produced or will propound or produce in this action, subject to the *Terry*

1 Protective Order, with the exception of any personal identifying information relating to Plaintiff
2 Joy Nwabueze, which shall not be produced to counsel in *Terry* unless and until Defendant
3 receives express written consent from Ms. Nwabueze to release such information; and

4 WHEREAS, the California Order provides that, if acceptable to this Court, plaintiff in
5 *Terry* may attend depositions noticed in this action and may ask questions related to the claims in
6 *Terry* subsequent to questioning by counsel in this action.

7 NOW, THEREFORE, the parties hereby stipulate and agree as follows:

8 **STIPULATION**

9 1. The parties will contemporaneously serve (by facsimile or e-mail) plaintiff in
10 *Terry* with copies of any deposition notices or deposition subpoenas.

11 2. The parties shall attempt in good faith to meet and confer regarding all aspects of
12 written discovery and depositions (including the scheduling and locations of such depositions) so
13 that discovery in *Terry* may proceed expeditiously, economically, and in a manner that will not
14 delay or disrupt discovery or other proceedings in this action.

15 3. Plaintiff in *Terry* may not move to compel, or otherwise challenge the discovery
16 proceedings, in this action.

17 4. Plaintiff's counsel in *Terry* may attend depositions in this action and may question
18 witnesses on matters related to the claims in *Terry*, subsequent to the conclusion of all
19 questioning by counsel to the parties in this action. If *Terry* Plaintiff's counsel wish to pose
20 questions to a deponent in a *Nwabueze* deposition, such counsel will be allowed to ask questions
21 at the conclusion of questioning by the parties, avoiding unduly repetitive questioning (e.g., each
22 witness will not be subject to asked and answered questions under the same rules as if there are
23 multiple parties on the same side in a single case). Each witnesses will only be noticed and
24 deposed once (absent good cause) as in any single litigation matter.

25 5. Defendants shall notify Plaintiff of any discovery order that the *Terry* court enters,
26 or of any action that the *Terry* court instructs any party herein to take. Plaintiff shall cooperate
27 with any such requests to the extent that they are consistent with this Order.
28

1 6. The parties shall contemporaneously serve plaintiff in *Terry* with all written
2 discovery requests propounded, written discovery responses produced, and material produced in
3 this action, subject to the terms of the *Terry* protective order. However, Defendant shall not
4 produce any personal identifying information relating to Plaintiff Joy Nwabueze to counsel in
5 *Terry* unless and until Defendant receives express written consent from Ms. Nwabueze to release
6 such information.

7 7. All discovery initially propounded or produced in *Terry*, or hereafter propounded,
8 produced, or obtained in *Terry*, shall be deemed as if issued in this action and all responses and
9 productions by Defendants in *Terry* shall be deemed as if provided in response to discovery
10 issued in this case and may be used in this action as if it had been initially propounded, produced,
11 or obtained in this action, to the extent and in the manner permitted under the Federal Rules of
12 Civil Procedure and subject to the terms of the protective order in this action. Depositions
13 noticed and taken as provided for in this stipulation shall be deemed to have been noticed and
14 taken in both proceedings and such deponents shall not be subject to further depositions in these
15 matters absent good cause.

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1 8. This Order applies regardless of whether discovery material originates with a party
2 or a non-party.

3 IT IS SO STIPULATED.

4 Dated: June 14, 2011.

PILLSBURY WINTHROP SHAW PITTMAN LLP
ROXANE A. POLIDORA
CONNIE J. WOLFE

By /s/ Connie J. Wolfe

Connie J. Wolfe
Attorneys for Defendants
Pacific Bell Telephone Company, AT&T Services,
Inc., and AT&T Operations, Inc.

5
6
7
8
9 Dated: June 14, 2011

KELLER GROVER, LLP
JEFFREY F. KELLER

JACOBS KOLTON, CHTD.
JOHN G. JACOBS
BRYAN G. KOLTON

13 DAVID SCHACHMAN & ASSOC., PC
14 DAVID SCHACHMAN

By /s/ David Schachman

David Schachman
Attorneys for Plaintiff
Joy Nwabueze and the Putative Class

17 **ATTESTATION OF SIGNATURE**
18 **(N.D. Cal. General Order 45)**

19 I, Connie J. Wolfe, hereby attest that concurrence in the filing of the following document:

20 STIPULATION AND [PROPOSED] ORDER COORDINATING DISCOVERY has been
21 obtained from all of the signatories.

22 Dated: June 14, 2011

/s/ Connie J. Wolfe

Connie J. Wolfe

23 **[PROPOSED] ORDER**

24 The foregoing stipulation is approved, and **IT IS SO ORDERED.**

25
26 Dated: _____

The Honorable Susan Illston
United States District Judge

COPY

cc 17

ENDORSED
FILED
ALAMEDA COUNTY

JUN 14 2011

CLERK OF THE SUPERIOR COURT
BY YASMIN SINGH, Deputy

1 Michael W. Sobol (State Bar No. 194857)
2 Jahan C. Sagafi (State Bar No. 224887)
3 Allison S. Elgart (State Bar No. 241901)
4 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP
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20 E-Mail: cbc@caddellchapman.com

21 *Attorneys for Plaintiff and Proposed Class*

22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
23 **COUNTY OF ALAMEDA**

24 AMELIA TERRY, individual, on behalf of
25 herself and all others similarly situated,

26 Plaintiff,

27 v.

28 PACIFIC BELL TELEPHONE
COMPANY, d/b/a/ AT&T California, and
DOES 1 through 99,

Defendant.

Case No. RG-09 488326

**PROOF OF SERVICE VIA EMAIL and
U.S. MAIL**

Judge: Hon. Steven A. Brick

I am a citizen of the United States and employed in San Francisco County,
California. I am over the age of eighteen years and not a party to the within-entitled action. My
business address is 275 Battery Street, 29th Floor, San Francisco, California 94111-3339. I am
readily familiar with this firm's practice for collection and processing of documents for service
via email, and that practice is that the documents are attached to an email and sent to the
recipient's email account the same day as the date listed on this Proof of Service.

1 I am also readily familiar with Lief, Cabraser, Heimann & Bernstein, LLP's
2 practice for collection and processing of correspondence for mailing with the United States Postal
3 Service.

4 On June 14, 2011, I served copies of the document(s) entitled:

5 1. STIPULATION AND [PROPOSED] ORDER COORDINATING
6 DISCOVERY; and this

7 2. PROOF OF SERVICE VIA EMAIL AND U.S. MAIL

8 in a sealed envelope, postage fully paid, addressed as follows:

9 Douglas R. Tribble
10 Connie J. Wolfe
11 PILLSBURY WINTHROP SHAW
12 PITTMAN LLP
13 501 West Broadway, Suite 1100
14 San Diego, CA 92101
15 douglas.tribble@pillsburylaw.com
16 connie.wolfe@pillsburylaw.com

13 Roxane A. Polidora
14 PILLSBURY WINTHROP SHAW
15 PITTMAN LLP
16 50 Fremont Street
17 San Francisco, CA 94105
18 roxane.polidora@pillsburylaw.com

17 Following ordinary business practices, the envelope was sealed and placed for
18 collection and mailing on this date, and would, in the ordinary course of business, be deposited
19 with the United States Postal Service on this date.

20 On June 14, 2011, I also served the above-listed document(s) on the same
21 addressees in the attached list by email delivery.

22
23 I declare under penalty of perjury under the laws of the State of California and the United
24 States that the above is true and correct.

25 Executed on June 14, 2011, at San Francisco, California.

26 
27 ALLISON S. ELGART

STIPULATION

EXHIBIT
B

RED
complex

COPY



7345891

ENDORSED
FILED
ALAMEDA COUNTY

AUG 25 2010

CLERK OF THE SUPERIOR COURT

Deputy

FILED
ALAMEDA COUNTY

AUG 26 2010

CLERK OF THE SUPERIOR COURT

By: *[Signature]* *KM*
Deputy

1 PILLSBURY WINTHROP SHAW PITTMAN LLP
 2 DOUGLAS R. TRIBBLE 116868
 3 CONNIE J. WOLFE 207661
 4 douglas.tribble@pillsburylaw.com
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 7 San Diego, CA 92101-3575
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 8 roxane.polidora@pillsburylaw.com
 9 50 Fremont Street, Fifth Floor
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 11 San Francisco, CA 94120-7880
 12 Telephone: (415) 983-1000
 13 Facsimile: (415) 983-1200

Attorneys for Defendant

PACIFIC BELL TELEPHONE COMPANY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

16 AMELIA TERRY, individual, on behalf of
 17 herself and all others similarly situated,

Plaintiffs,

v.

20 PACIFIC BELL TELEPHONE COMPANY,
 21 d/b/a AT&T California, and DOES 1 through
 22 99,

Defendants.

Case No. RG09488326

STIPULATION AND [PROPOSED]
PROTECTIVE ORDER *KM*

ASSIGNED FOR ALL PURPOSES TO:

Judge: Hon. Steven A. Brick

Dept.: 17

Third Amended Complaint Filed:
June 8, 2010

1 The Court has substantial interest in protecting the legitimate privacy interests of the
2 litigants and third parties while at the same time preserving the parties' rights to conduct
3 full and complete discovery. In order to protect the confidentiality of confidential
4 information obtained by the parties in connection with the above-captioned matter, the
5 parties hereby agree and the Court hereby orders as follows:

6 1. **Discovery Material.** The following procedures shall be employed and the
7 following terms, conditions, and restrictions shall govern with respect to all discovery
8 materials and things produced and disclosed by parties and third parties in this proceeding,
9 including all information contained in writings and documents (as defined in California
10 Evidence Code Section 250), deposition testimony, deposition exhibits, interrogatory
11 responses, and other written, recorded, or graphic matters (the "Discovery Material"). Any
12 persons receiving confidential information, as defined herein, shall not reveal or discuss
13 such information to or with any person who is not entitled to receive such information
14 except as set forth herein.

15 2. **Confidential Information.** This Order shall govern all Discovery Material
16 that a designating or producing party or non-party believes in good faith to be entitled to
17 protection from disclosure under California law as being confidential.

18 3. **"Confidential" Designation.** Discovery Material produced by any party or
19 non-party as part of discovery in this litigation may be designated by any party or
20 producing non-party as "Confidential." The party which designates material as
21 "Confidential" shall have a reasonable basis for believing, in good faith, that such
22 designation is appropriate and consistent with the terms of this Order and California law.
23 This designation refers to material that constitutes or contains trade secrets or other
24 confidential research, development, proprietary or commercial information, or other
25 information that is not publicly known, whether embodied in physical objects, documents,
26 or the factual knowledge of persons. Absent a specific order by the Court, once designated
27 as "Confidential" such Confidential Discovery Material shall be used by the parties solely
28 in connection with this litigation and not for any other purposes, including but not limited to

1 any other litigation, or any other business, competitive, governmental or regulatory
 2 purposes or functions.

3 4. **Designation Procedure.** The designation of Discovery Material as
 4 “Confidential” for purposes of this Protective Order shall be made in the following manner
 5 by the party or non-party seeking protection:

6 a. In the case of documents, exhibits, briefs, memoranda, interrogatory
 7 responses, responses to requests for admission, or other material (apart from depositions or
 8 other pretrial or trial testimony): by affixing the legend “Confidential” to any such
 9 Discovery Material containing any “Confidential” information at the time such documents
 10 are produced or such information is disclosed, or as soon thereafter as the party or non-
 11 party seeking protection becomes aware of the confidential nature of the information or
 12 material disclosed and sought to be protected hereunder; and

13 b. In the case of depositions or other pretrial or trial testimony: A party
 14 or non-party may designate information disclosed during a deposition or in response to
 15 written discovery as “Confidential” by so indicating in said responses or on the record at
 16 the deposition and requesting the preparation of a separate transcript of such material. In
 17 addition, a party or non-party may designate in writing, within thirty (30) days after receipt
 18 of said responses or of the deposition transcript for which the designation is proposed, the
 19 specific pages of the transcript and/or specific responses to be treated as “Confidential.”
 20 Any other party may object to such proposal, in writing or on the record. Upon such
 21 objection, the parties shall follow the procedures described in paragraph 9 below. After any
 22 designation made according to the procedure set forth in this paragraph, the designated
 23 documents or information shall be treated as “Confidential” respectively until the matter is
 24 resolved according to the procedures described in Paragraph 9 below, and counsel for all
 25 parties shall be responsible for marking all previously unmarked copies of the Discovery
 26 Material in their possession or control with the respective “Confidential” designation.

27 5. **Material Produced by a Non-Party.** Any party or non-party may designate
 28 as “Confidential” any Discovery Material produced by a non-party if the party or non-party

believes in good faith that such Discovery Material is entitled to protection from disclosure under the terms of this Order. Such designation shall be made by giving written notice of such intent and the relevant document numbers or other identification to all parties, and the producing non-party, within thirty (30) days of the receipt of the Discovery Material, and shall thereafter be stamped or otherwise marked "Confidential."

6. **Submissions to the Court.** Any party who files or intends to file any Discovery Material designated as "Confidential" with the Court for use at trial or in connection with any motion other than discovery motions or proceedings, and who does not intend to have such records sealed must follow the procedures set forth in Rule 2.551(b)(3)(A) and (d) of the California Rules of Court. The party (or producing non-party) seeking to protect the confidentiality of the Discovery Material designated as "Confidential" may then make a motion or application to seal the records in accordance with Rule 2.551 of the California Rules of Court.

With respect to discovery motions or proceedings, any party seeking to submit any Discovery Material designated as "Confidential" to the Court must lodge the documents with the Court along with a cover letter explaining that the documents are being lodged in connection with a discovery motion and should not be filed under any circumstances.

Pursuant to the California Rules of Court pertaining to appeals and writs, any and all briefs and documents containing "Confidential" Discovery Material that are lodged with the Court shall constitute "lodged" papers or records under Rules 8.120 and 8.122 and "documents and exhibits submitted to the trial court" under Rule 8.486, subject to this Order.

7. **Disclosure of "Confidential" Information.** All Discovery Material designated "Confidential" shall be used solely for the purpose of this proceeding and for no other proceedings or purpose. Discovery Material designated as "Confidential," or copies or extracts therefrom and compilations and summaries thereof, may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons:

- 1 a. The law firms of record in the above-captioned litigation, their
- 2 attorneys and staff, and in house and/or general counsel and staff for any party;
- 3 b. The named parties or officers or employees of any party, to the
- 4 extent deemed necessary by counsel for conducting the above-captioned litigation;
- 5 c. Experts and consultants for the purpose of assisting in the preparation
- 6 of the case or for the purpose of testifying by deposition or at the trial of this matter, subject
- 7 to and conditioned upon compliance with Paragraph 8 herein;
- 8 d. The Court, and the Court staff pursuant to Paragraph 6 herein;
- 9 e. Court reporters, transcribers, notary publics, or stenographers;
- 10 f. Copy services, database providers, or graphics or design providers
- 11 retained by counsel for a party for purposes of preparing demonstrative or other exhibits for
- 12 deposition, trial, or other court proceedings in this action, subject to and conditioned upon
- 13 compliance with Paragraph 8 herein;
- 14 g. Any authors or recipients of the "Confidential" Discovery Material;
- 15 h. Testifying witnesses at deposition or at trial, subject to and
- 16 conditioned upon compliance with Paragraph 8 herein. A witness shall sign the
- 17 Acknowledgment as required under Paragraph 8 before being shown Discovery Material
- 18 designated "Confidential." "Confidential" Discovery Material may be disclosed to a
- 19 witness who will not sign the Acknowledgment as required under Paragraph 8 only in a
- 20 deposition at which the party or non-party who designated the "Confidential" Discovery
- 21 Material is represented or has been given notice that "Confidential" Discovery Material
- 22 produced by the party or non-party may be used. At the request of any party or non-party,
- 23 the portion of the deposition transcript involving the "Confidential" Discovery Material
- 24 shall be designated "Confidential" pursuant to paragraph above. Witnesses shown
- 25 "Confidential" Discovery Material shall not be allowed to retain copies. The parties shall
- 26 meet and confer regarding the use of "Confidential" Discovery Material at trial as set forth
- 27 in paragraph 17 below;
- 28 i. Jury or trial consultants retained by counsel for a party, subject to

1 and conditioned upon compliance with Paragraph 8 herein; and

2 j. Any other person only upon order of the Court or upon prior written
3 consent of the party or non-party producing the "Confidential" Discovery Material.

4 8. **Access Subject To Agreement.** Except as otherwise provided in Paragraph
5 7 above, all persons listed in Paragraphs 7(c), 7(f), 7(h), 7(i), and 7(j) above may be given
6 access to information or material designated as "Confidential" only to the extent that they
7 first confirm their understanding and agreement to abide by the terms of this Protective
8 Order by completing and signing the Acknowledgment attached hereto as Exhibit A
9 ("Acknowledgment"). The Acknowledgments shall be retained by counsel for the party
10 who obtains them, and nothing thereunder shall require the disclosure of reports and/or
11 consultation that would not otherwise be required by law.

12 9. **Challenging a Designation.** In the event that a receiving party disagrees
13 with the designation by the producing party of any information as "Confidential," the
14 receiving party shall state its objections in writing. The parties will try, in good faith, to
15 resolve such dispute on an informal basis before presenting the dispute to the Court by
16 motion or otherwise. In the event an informal resolution is not reached, the designating
17 party must, within (14) days of receipt of the notice of objection, file a request with the
18 Court for a ruling as to whether the Discovery Material is properly designated
19 "Confidential." The designating party shall have the burden of persuasion that the
20 designation is consistent with California law. A failure by the designating party to seek
21 such a ruling from the Court within the stated time shall void for purposes of this Order, the
22 "Confidential" designation of such materials.

23 10. **Jurisdiction.** All persons who have access to information or material
24 designated as "Confidential" under this Protective Order acknowledge they are bound by
25 this Order and submit to the jurisdiction of this Court for purposes of enforcing this Order.

26 11. **No Prejudice.** Producing or receiving Discovery Material designated as
27 "Confidential," entering into, agreeing to or otherwise complying with the terms of this
28 Protective Order shall not:

1 a. Operate as an admission by any party or non-party that any particular
2 Discovery Material designated as "Confidential" contains or reflects trade secrets,
3 proprietary or commercially sensitive information, or any other type of confidential
4 information;

5 b. Operate as an admission by any party or non-party that any particular
6 Discovery Material designated as "Confidential" contains or reflects information that if
7 disclosed would cause harm or be likely to cause harm to the producing party or non-party;

8 c. Operate as an admission by any party or non-party that the
9 restrictions and procedures set forth herein constitute or do not constitute adequate
10 protection for any particular information deemed by any party or non-party to be
11 "Confidential;"

12 d. Prejudice in any way the rights of the parties or non-parties to object
13 to the production of documents they consider to be not subject to discovery;

14 e. Prejudice in any way the rights of any party to object to the
15 authenticity or admissibility into evidence of any document, testimony, or other evidence
16 subject to this Protective Order;

17 f. Prejudice in any way the rights of a party or non-party to seek a
18 determination by the Court whether any information or material should be subject to the
19 terms of this Protective Order;

20 g. Prejudice in any way the rights of a party or non-party to petition the
21 Court for a further protective order relating to any purportedly confidential information;

22 h. Prevent the parties to this Protective Order from agreeing in writing
23 or on the record during a deposition or hearing in this action to alter or waive the provisions
24 or protections provided for herein with respect to any particular information or material;

25 i. Limit a party's or non-party's ability to grant other parties or non-
26 parties access to its own documents and/or information;

27 j. Limit any party in the introduction of "Confidential" Discovery
28 Material into evidence at trial, subject to Paragraph 17 below and the designating party's or

1 designating non-party's right to seek further protection from the Court;

2 k. Be deemed to waive any applicable privilege or work product
3 protection, or to affect the ability of a party or non-party to seek relief for an inadvertent
4 disclosure of material protected by privilege or work product protection; and/or

5 l. Prevent a party or non-party from objecting to discovery which it
6 believes to be improper, including objections based upon the privileged, confidential, or
7 highly confidential nature of the Discovery Material requested.

8 12. **Use of Party's Own Designated Information.** This Protective Order has
9 no effect upon, and shall not apply to, a party's or non-party's use or disclosure of its own
10 "Confidential" Discovery Material for any purpose. Nothing contained herein shall impose
11 any restrictions on the use or disclosure by a party or non-party of documents, information,
12 or Discovery Material designated as "Confidential" obtained lawfully by such party or non-
13 party independently of any proceedings in this action, or which:

14 a. Was already known to such party or non-party by lawful means prior
15 to acquisition from, or disclosure by, another party or non-party in this action; provided,
16 however, that any such person who provides such information is not subject to a
17 confidentiality agreement or other restriction barring the provision of such information; or

18 b. Is or becomes publicly known through no fault or act of such party or
19 non-party.

20 13. **Confidentiality Rights of Third-Parties.** In the event that "Confidential"
21 Discovery Material in the possession or control of a party or non-party involves the
22 confidentiality rights of a third party or its disclosure would violate a protective order
23 issued in another action, the party or non-party having possession or control of the
24 information will attempt to obtain the consent of the third party to disclose the information
25 under this Order, unless otherwise ordered by the Court. If the consent of the third party
26 cannot be obtained, the party or non-party having possession or control of the information
27 will notify the party seeking discovery of: (a) the existence of the information without
28 producing such information; and (b) the identity of the third party, provided that disclosure

1 of the identity of the third party does not violate any confidentiality obligations. The party
 2 seeking discovery may then make further application to the third party or seek other means
 3 to obtain such information.

4 14. **Inadvertent Disclosure Of Confidential Information.** Any "Confidential"
 5 Discovery Material that is inadvertently produced without written notice or identification as
 6 provided in Paragraphs 3 through 5 of its confidential nature may be so designated in
 7 writing by the producing party or non-party after the realization that the "Confidential"
 8 Discovery Material has been produced without such designation. However, until the
 9 Discovery Material is designated as "Confidential" as set forth in Paragraphs 3 through 5,
 10 the parties shall be entitled to treat the material as non-confidential. As soon as the
 11 receiving party becomes aware of the inadvertent production, the information must be
 12 treated as if it had been timely designated under this Protective Order, and the receiving
 13 party must endeavor in good faith to obtain all copies of the document that it distributed or
 14 disclosed to persons not authorized to access such information by Paragraph 7 above, as
 15 well as any copies made by such persons. This Protective Order does not affect the parties'
 16 or non-parties' rights or responsibilities under California law regarding the inadvertent
 17 disclosure of privileged information.

18 15. **Modification of Protective Order.** It is the present intention of the parties
 19 that the provisions of this Protective Order shall govern discovery and other pretrial and
 20 trial proceedings in this action. Nonetheless, each of the parties or any other proper party
 21 hereto shall be entitled to seek modification of this Protective Order for good cause by
 22 application to the Court on notice to the other parties hereto.

23 16. **Survival.** Final termination of this proceeding, including exhaustion of
 24 appellate remedies, shall not terminate the limitations on use and disclosure imposed by this
 25 Protective Order. Upon final termination of this proceeding, all "Confidential" Discovery
 26 Material and copies thereof, including but not limited to such Discovery Material in the
 27 hands of outside experts or consultants, shall be delivered to counsel of record for the
 28 producing party or non-party of such "Confidential" Discovery Material, upon request,

1 within sixty (60) days of such request, or else shall be destroyed upon request and the
2 producing party shall be advised in writing within sixty (60) days of the request that such
3 Discovery Material has been destroyed, except for "Confidential" Discovery Material filed
4 with the Court, whether or not filed under seal; provided, however, that counsel of record
5 may retain copies of briefs and other papers filed with the Court and attorney work product
6 which contains or constitutes "Confidential" Discovery Material so long as such briefs and
7 other papers are maintained in accordance with the provisions of this Protective Order.

8 17. **Use of Designated Discovery Material in Court Proceedings.** In the event
9 that any Discovery Material designated as "Confidential" hereunder is used in any court
10 proceeding in this action or any appeal therefrom, such Discovery Material shall not lose its
11 status as "Confidential" through such use. Counsel for the parties shall confer on such
12 procedures as are necessary to protect the confidentiality of any documents, information,
13 and transcripts used in the course of any court proceedings, and shall incorporate such
14 procedures, as appropriate, in the pre-trial order.

15 18. **Other Actions.** If any party (a) is subpoenaed in another action, (b) is
16 served with a demand in another action to which it is a party, or (c) is served with any other
17 legal process by one not a party to this action seeking information or material which was
18 produced or designated as "Confidential" by someone other than that party, the party shall
19 give prompt actual written notice, by hand or facsimile transmission, within ten (10) days of
20 receipt of such subpoena, demand, or legal process, to those who produced and/or
21 designated the Discovery Material, prior to compliance with the subpoena so as to allow the
22 producing and/or designating parties or non-parties to seek protection from the Court or
23 courts. Nothing herein shall be construed as requiring the party or anyone else covered by
24 this Protective Order to challenge or appeal any order requiring production of information

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1 or material covered by Protective Order, or to subject itself to any penalties for
2 noncompliance with any legal process or order, or to seek any relief from this Court.

3 Dated: August 24, 2010.

4
5 HOFFMAN & LAZEAR
6 H. TIM HOFFMAN
7 ARTHUR W. LAZEAR
8 CHAD A. SAUNDERS

9 By 

Chad A. Saunders

Attorneys for Plaintiff

AMELIA TERRY, individual, on behalf of herself
and all others similarly situated

10
11 Dated: August 25, 2010.

12
13 PILLSBURY WINTHROP SHAW PITTMAN LLP
14 DOUGLAS R. TRIBBLE
15 CONNIE J. WOLFE
16 ROXANE A. POLIDORA

17 By 

Connie J. Wolfe

Attorneys for Defendant

PACIFIC BELL TELEPHONE COMPANY

18
19
20 ORDER

21 IT IS SO ORDERED.

22
23 Dated: 8-26-10

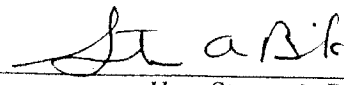

Hon. Steven A. Brick
JUDGE OF THE SUPERIOR COURT

EXHIBIT A

ACKNOWLEDGMENT OF _____.

I, _____, declare:

1. I have reviewed a copy of the Protective Order in the action entitled *Amelia Terry v. Pacific Bell Telephone Company, et al.* (the "Litigation"), pending in the Superior Court of the State of California, County of Alameda, Case No. RG09488326. I have carefully read and understand the provisions of the Protective Order.

2. I will comply with all of the provisions of the Protective Order. I will hold in confidence, will not disclose to anyone other than those persons specifically authorized by the Protective Order, and will not copy or use except for purposes of the Litigation, any information designated as "Confidential" that I receive in the Litigation.

3. I will maintain all material designated as "Confidential" in a secure manner to prevent unauthorized access to such material. Upon request, I will return the Confidential Discovery Material including copies, notes or other transcriptions made therefrom to the counsel who provided me with the Confidential Discovery Material no later than thirty (30) days following such request.

4. I hereby consent to the jurisdiction of the California Superior Court, County of Alameda, for the purpose of enforcing this Protective Order.

Executed this ____ day of _____, 20__, at _____,

_____.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2011, a true and correct copy of **STIPULATION AND [PROPOSED] ORDER COORDINATING DISCOVERY** was electronically transmitted to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all ECF registrants in this case.


Rosita Fe J. Quimpo-Herbilla